

SENATE BILL 2973

By Gilbert

AN ACT to amend Tennessee Code Annotated, Title 4; Title 38;  
Title 39; Title 50 and Title 56, relative to employment.

WHEREAS, The Worker's Compensation Reform Acts of 1992 and 1996 enacted significant reforms which are still being implemented; and

WHEREAS, The Special Joint Committee of the General Assembly on Worker's Compensation has monitored the implementation of the reform legislation and its impact on the worker's compensation system in Tennessee; and

WHEREAS, The Special Joint Committee of the General Assembly on Worker's Compensation recommends certain statutory changes; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-203(a), is amended by deleting the language "from the time" and by substituting instead the language "from the latter of the date of the last authorized voluntary treatment or the time".

SECTION 2. Tennessee Code Annotated, Section 50-6-203(b), is amended by adding the following language immediately after the first sentence of the subsection:

The running of the one-year limitation period is suspended from the date of the filing of a suit for compensation under this chapter until the date of any dismissal or nonsuit.

SECTION 3. Tennessee Code Annotated, Title 50, Chapter 6, Part 2, is amended by adding the following as a new section to be appropriately designated:

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Section \_\_\_\_.

(a) The department of labor shall develop a statistical data form for collecting data relevant to assessing the workers' compensation system. In developing the form, the department shall seek comment from the advisory council on workers' compensation and the administrative office of the courts. The form shall constitute a required element of any final settlement or order in a worker's compensation case. The commissioner of labor shall promulgate the form as a rule pursuant to Tennessee Code Annotated, Title 4, Chapter 5.

(b) An order of a court or a settlement approved by the department of labor or a court shall not become final until the statistical data form required by this section is completed.

SECTION 4. Tennessee Code Annotated, Section 50-6-415, is amended by adding the following as a new subsection to be appropriately designated:

(c) The commissioner of labor shall enforce requests pursuant to this section in the same manner and with the same authority as the commissioner of commerce and insurance possesses with respect to violations of this part and title 56. The commissioner shall also notify the principal corporate office of any insurer of any refusal to comply with such requests.

SECTION 5. Tennessee Code Annotated, Section 50-9-103(4), is amended by deleting the item and by substituting instead the following:

(4) "Drug" means any controlled substance subject to testing pursuant to drug testing regulations adopted by the United States department of transportation. A covered employer shall test an individual for all such drugs in accordance with the provisions of this chapter.

SECTION 6. Tennessee Code Annotated, Section 50-9-103(15), is amended in the third sentence of the item by deleting the word "public" and by substituting instead the word "any".

SECTION 7. Tennessee Code Annotated, Section 50-9-105(a)(11), is amended by deleting the language “the right” and by substituting instead the language “any right”.

SECTION 8. Tennessee Code Annotated, Section 50-9-106(a)(2), is amended by adding the following language at the end of the subdivision:

A written record shall be made of the observations leading to a controlled substances reasonable suspicion test within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential by the covered employer pursuant to Section 50-9-109 and shall be retained by the covered employer for at least one (1) year.

SECTION 9. Tennessee Code Annotated, Section 50-9-106(a)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3) ROUTINE FITNESS FOR DUTY DRUG TESTING. A covered employer shall require an employee to undergo drug or alcohol testing if, as a part of the employer’s written policy, the test is conducted as a routine part of a routinely scheduled employee fitness-for-duty medical examination or is scheduled routinely for all members of an employment classification or group; provided, however, a public employer may require scheduled, periodic testing only of employees who:

- (A) Are police or peace officers;
- (B) Have drug interdiction responsibilities;
- (C) Are authorized to carry firearms;
- (D) Are engaged in activities which directly affect the safety of others;
- (E) Work in direct contact with inmates in the custody of the department of correction; or

(F) Work in direct contact with minors who have been adjudicated delinquent or who are in need of supervision in the custody of the department of children's services.

This subdivision does not require a drug or alcohol test if a covered employer's personnel policy on July 1, 1998 does not include drug or alcohol testing as part of a routine fitness-for-duty medical examination. The test shall be conducted in a nondiscriminatory manner. Routine fitness-for-duty drug or alcohol testing of employees does not apply to volunteer employee health screenings, employee wellness programs, programs mandated by governmental agencies, or medical surveillance procedures that involve limited examinations targeted to a particular body part or function.

SECTION 10. Tennessee Code Annotated, Section 50-9-106(a)(5), is amended by deleting the language "the covered employer may" and by substituting instead the language "as defined in Title 50, Chapter 3, and the rules promulgated thereunder, the covered employer shall".

SECTION 11. Tennessee Code Annotated, Section 56-47-102, is amended by adding the following as a new item to be appropriately designated:

( ) "Premium avoidance" means any intentional material misrepresentation by an employer of any or all of the four (4) premium determinants. The determinants are employee job classifications, amount of payroll in each classification, geographic location of insured operations, and history of past losses. Intentional misrepresentation of each of these items can affect the total premium charged by an insurer to a worker's compensation risk.

SECTION 12. Tennessee Code Annotated, Section 56-47-105, is amended by deleting the section in its entirety and by substituting instead the following:

Violations of Section 56-47-103 are to be valued according to the provisions of Section 39-11-106(a)(36) and punished as theft under Section 39-14-105.

SECTION 13. This act shall take effect July 1, 1998, the public welfare requiring it.